



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/051,565	06/08/1998	DIRK SELDESLACHTS	98227	8146

7590 04/23/2002

BACHMAN & LAPOINTE
900 CHAPEL STREET
SUITE 1201
NEW HAVEN, CT 065102802

EXAMINER

SHERRER, CURTIS EDWARD

ART UNIT

PAPER NUMBER

1761

DATE MAILED: 04/23/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

MF-22

Office Action Summary	Application No. 09/051,565	Applicant(s) Seldeslachts
	Examiner Curtis E. Sherrer	Art Unit 1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on Jan 16, 2002

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) Claim(s) 28, 32, 33, 35-48, 50, and 53-70 is/are pending in the application.

4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 28, 32, 33, 35-48, 50, and 53-70 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are objected to by the Examiner.

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13) Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) All b) Some* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15) Notice of References Cited (PTO-892) 18) Interview Summary (PTO-413) Paper No(s). _____

16) Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) Notice of Informal Patent Application (PTO-152)

17) Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 20) Other: _____

Part III DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(b) because they are incomplete. 37 CFR 1.83(b) reads as follows:

When the invention consists of an improvement on an old machine the drawing must when possible exhibit, in one or more views, the improved portion itself, disconnected from the old structure, and also in another view, so much only of the old structure as will suffice to show the connection of the invention therewith.

Correction is required.

2. In Fig. 4, which a cross sectional view of Fig. 3, it is not clear how the steam or gas will communicate with holes 21 found in the corrugated sections.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 54 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claim 54 is indefinite because the scope of the phrase "large size filler bodies" is unknown. Applicant now argues the patentability of said limitation and therefore, its scope must be made clear.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 28, 32, 33, 35-48, 50, and 53-70 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's admissions in view of Kruger et al (U.S. Pat. No. 4,550,029) in further view of Perry's Chemical Engineering Handbook (pages 18-19 to 18-37, hereinafter "Perry") for the reasons set forth in the last Office Action.

Response to Arguments

8. Applicant's arguments filed 02/14/02 have been fully considered but they are not persuasive.

9. Applicant argues that because the instant art rejection is based, in part, on admissions of applicant that the rejection is fatally defective. See MPEP 2129. There is nothing improper in using such admissions to formulate a prior art rejection.

10. Applicant argues that the teaching of Perry would dissuade those in the art from using the column of Kruger. It is believed that applicant is essentially restating the logic of the rejection, i.e., Perry modifies, and provides motivation to modify, the teaching of Kruger.

11. It is noted that applicant states that the wort contains solids. No proof has been presented to determine if there are actually solids in the wort, whether they are dissolved or undissolved, what size the solids are, and if they would in fact be the kind to create problems in the process.

12. Applicant broadly states that the examiner has not provided where all the claimed method steps can be found in the references, but does not give any indication as to which specific limitations were not discussed.

13. Applicant discusses the amount of agitation, as disclosed by the prior art. Kruger appears to desire "considerable movement of the wort and an intensive formation of vapor bubbles therein." This is desired so as to "result[] in an advantageous fracture formation and stability of the beer." There is nothing in Kruger that supports the notion that foaming is desirable other than for the purpose of providing for the stability of the beer through intensive mixing. (Col. 3, lines 21-30). Perry suggests that packed columns are useful for liquids that tend to foam because

there is a decreased amount of agitation. If the packed column did not obtain the same stripping results as prior art columns, those in the art would not utilize packed columns.

14. In other words, there's more than one way to skin a cat. Just because a second method has different operating characteristics from that of the prior art does not indicate to those of ordinary skill that the second method is ineffective in obtaining the results of the prior art. As Perry states, “[p]acked columns for gas-liquid contacting are used extensively for absorption operations.” Kruger finds high agitation rates necessary to obtain optimum stripping because he is using a plate column.

15. Lastly, it is noted that some claims are directed to apparatuses and for these the claim recitations directed to their use in wort processing is treated as an intended use and therefore given little patentable weight.

Conclusion

16. No claim is allowed.

17. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Curtis Sherrer whose telephone number is (703) 308-3847. The examiner can normally be reached on Tuesday through Friday from 6:30 to 4:30. The **fax phone number** for this Group is (703)-305-3602.

19. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0661.



Curtis E. Sherrer
Primary Examiner
April 19, 2002